

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

&

THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

TUESDAY, THE 9TH OCTOBER 2007 / 17TH ASWINA 1929

WP(C).No. 25294 of 2007(J)

PETITIONER:

**MR.V. ASHOK KUMAR, AGED 53 YEARS,
S/O. LATE P.VASUDEVAN NAIR, VASUDHA, TC 15/850(1),
RAMADEVI MANDIRAM ROAD, VAZHUTHACAUD,
THIRUVANANTHAPURAM-10.**

BY ADV. SRI.P.V.ANIL

RESPONDENTS:

- 1. THE DEPUTY SUPERINTENDENT OF POLICE,
NEYATTINKARA.**
- 2. THE CIRCLE INSPECTOR OF POLICE,
KATTAKADA.**
- 3. THE SUB INSPECTOR OF POLICE, MARANALLOOR**
- 4. EBENESAR, S/O. YOHANNAN,
MALANIRA PUTHEN VEEDU, VAZHAPPALLIKONAM,
KOOVALASSERY P.O., MARANALLOOR VILLAGE,
NEYATTINKARA TALUK.**

BY GOVERNMENT PLEADER SRI. P.A. SALIM

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 09/10/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

WP(C) NO: 25294/2007

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1. COPY OF THE JUDGMENT DT. 5/10/06 IN OS NO. 257/06 ON THE FILE OF IST ADDL. MUNSIFF COURT, NEYYATTINKARA.

EXT.P2. COPY OF THE DECREE DT. 5/10/2006 IN OS NO. 257/06 ON THE FILE OF IST ADDL. MUNSIFF COURT, NEYYATTINKARA.

EXT.P3. COPY OF THE COMPLAINT LODGED BY THE PETITIONER BEFORE THE R3 DT. 11/08/07.

EXT.P4. COPY OF THE COMPLAINT LODGED BY THE PETITIONER BEFORE THE R2 DT. 12/08/2007.

EXT.P5. COPY OF THE COMPLAINT DT. 12/08/2007 BY THE PETITIONER BEFORE THE R1.

EXT.P6. COPY OF THE COMMISSION REPORT AND SKETCH BY ADV. K.S. JOTHIKUMAR IN OS NO.2 57/06 DT. 12/4/06.

EXT.P7. PHOTOGRAPHS AND EXT. P1 AND P2 PROPERTY OF THE PETITIONER.

RESPONDENT'S EXHIBITS NIL.

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K.BALAKRISHNAN NAIR & T.R.RAMACHANDRAN NAIR, JJ.

Writ Petition (C) No.25294 of 2007-J

Judgment

Balakrishnan Nair, J.

The petitioner claims, he is the owner of 6 acres of land, which is a garden land. He has obtained Ext.P1 Judgment and Ext.P2 decree against the 4th respondent, restraining him from trespassing into the said property or committing waste or constructing any road in the said plot. The petitioner is residing at a distance of about 25 kms. from the said plot. He wanted to level the property. When he went there along with an Architect to draw the plan for the same, the 4th respondent came there and obstructed the petitioner and his Architect. Immediately, the petitioner filed Ext.P3 representation before the SI of Police on 11.08.2007, pointing out the obstruction caused by the 4th respondent and claiming protection. He submits, he has also filed Ext.P4 representation before the 2nd respondent. When the said respondent did not take any action on Ext.P4, the petitioner filed Ext.P5 representation before the 1st respondent. The petitioner submits, the 4th respondent is a very influential person and he fears that the said respondent will obstruct the levelling and the

construction activities in his plot. His life is also threatened. In the above background, this Writ Petition is filed seeking the following relief :

“(i) issue a writ of mandamus or any other appropriate writ, direction or order, directing the respondents 1 to 3 to provide adequate police protection to the life of the petitioner and his workers for carrying out construction and levelling activities in the property of the petitioner mentioned in Exts.P1 and P2.”

2. The third respondent has filed a statement, in which it is submitted that the major portion of the property owned by the petitioner is a quarry, which was being operated for more than 25 years. There are five residential houses, near to the said property. The residents of those houses are using a portion of this property as their pathway. The petitioner does not require any protection as he is residing at Thiruvananthapuram and he is not having any residential house in the above said property. The 4th respondent is one of the persons, residing in the neighbourhood. The said respondent has complained before the Local Panchayat Member, regarding the illegal mechanical operations carried out in the said quarry, it is submitted. The petitioner has not filed any complaint before the third respondent. Ext.P3 complaint is not received by the said

respondent. The claim of the petitioner that he has filed a petition before the CI of Police, is also not correct. The area in question is within the jurisdiction of the Deputy Superintendent of Police, Nedumangad and not the Deputy Superintendent of Police, Neyyattinkara. Further, the said respondent has received a petition from the 4th respondent on 22.08.2007, alleging that the petitioner is harassing him. The petitioner has filed a reply affidavit dealing with the averments of the 3rd respondent in his statement and also produced the Commissioner's report in OS No.257/06 on the files of the Additional Munsiff's Court, Neyyattinkara.

3. We heard the learned counsel on both sides. There is already an injunction against the 4th respondent from trespassing into the property of the petitioner. If the petitioner or his workmen are obstructed by the 4th respondent from entering his property, he can move the civil court and take execution steps against him. In view of that efficacious remedy available to him, it is unnecessary for this Court to ask the Police to execute the decree in favour of the petitioner. Further, the third respondent has submitted that he has not received any representation from the petitioner. But the petitioner has not produced any evidence to show that the representation has been filed. In view

of the above position, we feel that no orders need be passed in this Writ Petition in favour of the petitioner. He can move the civil court and get appropriate orders against the 4th respondent, if the said respondent is violating the decree of the civil court.

The Writ Petition is dismissed with the above observation.

K.BALAKRISHNAN NAIR,JUDGE

09.10.2007

T.R.RAMACHANDRAN NAIR, JUDGE

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